Purpose

✓ To decide whether to approve, modify, or reject the case plan when a child has been determined to be within the jurisdiction of the CPA, and aggravated circumstances have not been found. Idaho Code §16-1621(1) & (4); IJR 44.

✓ The purpose of the case plan is to 1) provide a framework for the systematic analysis of all issues that need to be addressed and a detailed "road map" for the prompt, successful, and permanent resolution of the case, either through reunification or alternative permanent placement; 2) provide a mechanism for holding the participants accountable; and 3) define "reasonable efforts" to finalize the permanent placement of the child (including reasonable efforts to reunify the family). IJR 44(1).

Best Practice Recommendations:

✓ Open the hearing by explaining the purpose of the hearing in plain language.
✓ If significant changes are later made in the plan, IDHW should schedule a new Planning hearing to seek approval of the changed plan.

When

✓ Within 5 days after the filing of the case plan. The case plan must be filed within 30 days after the adjudicatory hearing or within 60 days after the child is removed from the home, whichever occurs first. Idaho Code § 16-1621(1); IJR 44(1).

Best Practice Recommendations:

✓ Grant continuances only when absolutely necessary, only for a short time, and subject to appropriate orders to ensure that the parties will be ready to proceed on the next court date.
✓ Incarceration should not be a basis for continuance – the court can enter a transport order or arrange for the party to appear by phone.

Who Should Be Present

✓ Judge
✓ Parents whose rights have not been terminated, including putative fathers
✓ Relatives with legal standing and other custodial adults
✓ The child's tribal custodian, tribe, and tribal attorney, if applicable

Best Practice Recommendation:

If the child is an Indian child, consult the ICWA Benchcard

✓ Assigned IDHW caseworker
✓ County Prosecutor or Deputy Attorney General
✓ Attorney for parents (separate counsel if conflict warrants)
✓ Guardian *ad litem*, attorney for guardian *ad litem*, and/or attorney for child
✓ Age-appropriate children
✓ Court reporter or suitable technology, security personnel, and interpreter(s), if applicable

Practice Note:

Foster parents are entitled to notice and have a right to attend the planning hearing, but are not parties to the case.

January 24, 2007

Planning Hearing

Submission of Reports

✓ The written case plan must be filed no later than 60 days from the date the child was removed from the home or 30 days from the date of the adjudicatory hearing, whichever is first. Idaho Code §16-1621(1).

✓ The case plan must be delivered to the parents, legal guardians, and the guardian *ad litem* and/or attorney for the child.

✓ The case plan should be verified or in the form of an affidavit.

Best Practice Recommendations:

Guardian *ad litem* Report
✓ Court may require report to address some or all of planning hearing issues.
✓ If required, report should be filed and served on all parties 5 days before planning hearing .
✓ The GAL report should be verified or in the form of an affidavit.

The Case Plan

✓ Consultation: IDHW must consult with the parents and the GAL in preparing the case plan.
✓ Contents:
- If the child is placed in the custody of IDHW, the plan should set forth reasonable efforts which will be made to make it possible for the child to return to his/her home and shall concurrently include a plan setting forth reasonable efforts to place the child for adoption, with a legal guardian, or in another approved permanent placement. Idaho Code § 16-1621(3).
- The plan should identify the current foster care placement for the child, including a statement of why that placement is the least disruptive environment and most family-like setting that meets the needs of the child.
- The plan should identify the services to be provided to the child and to the foster family, including services to identify and meet any special medical, educational, emotional, physical or developmental needs the child may have, to assist the child in adjusting to the placement, and/or to ensure the stability of the placement.
- The plan should set forth what further efforts are needed to address any element of the case plan.
- The plan must state with specificity the role of IDHW toward each parent. Idaho Code §16-1621(3).

✓ The reunification plan should:
- Identify all the issues to be addressed before the child can safely be returned home without IDHW supervision.
- *Specifically* identify the tasks to be completed by IDHW, each parent, or others to address each issue, including services to be made available by IDHW to the parents and in which the parents are required to participate and *deadlines* for completion of each task.
- Identify terms of visitation with parents and with siblings, and order child support where appropriate.
- Include measurable goals for the reunification of the child and parent(s).

The Case Plan (con't.)

✓ Concurrent Alternative Permanency Plan should:
- Address all options for permanent placement of the child.
- Address the advantages and disadvantages of each option, in light of the child's best interest.
- Include recommendations as to which option is in the child's best interest.
- Specifically identify the actions necessary to implement the recommended option, and deadlines for those actions.
- Address options for maintaining the child's connection to his/her community, including individuals with a significant relationship to the child, and organizations or community activities with which the child has a significant connection.
- Identify further investigation necessary to identify and/or assess other options for permanent placement, to identify actions necessary to implement the recommended placement, and to identify options for maintaining the child's significant connections.
- Specifically define the role of IDHW toward each parent.

Practice Notes and Best Practice Recommendations:

✓ If a child is placed in the custody of IDHW, then IDHW decides where to place the child, subject to judicial review. Under both state and federal law, there are substantial questions as to the nature and extent of that review. It is clear, however, that the court may require IDHW to include the child's placement in the case plan and may reject a case plan that includes an inappropriate placement.
✓ A child may not be placed out-of-state without a court order. The court should require that any out-of-state placement be made in accordance with the Interstate Compact on the Placement of Children. Idaho Code § 16-2101, *et seq.*
✓ The Indian Child Welfare Act (25 USC 1901, *et seq.*) establishes preferences in placement for Indian children. If the child is an Indian child, the case plan should include information demonstrating that the placement complies with ICWA.
✓ Please refer to the Idaho Child Protection Manual (which can be found on the Idaho Supreme Court's website) for more information about judicial review of agency placement decisions and compliance with the ICPC and ICWA.

Order

✓ The plan, once approved (or approved with modifications), must be entered into the record as an order of the court. Idaho Code § 16-1621(4).

Planning Hearing

PLANNING HEARING

Best Practice Recommendations:

✓ For the case plan order, use the form provided in the Benchguide or found on the Idaho Supreme Court's website: http://www.isc.idaho.gov/childapx.htm .

✓ If the disposition at the adjudicatory hearing was to place the child in the child's own home under the supervision of IDHW, it is not clear whether the statute requires a case plan and a planning hearing. Recommended best practice is for the court to require it, so there is a detailed plan to promote and ensure successful resolution, and an alternative plan if protective supervision proves insufficient.

✓ In the case plan, SPECIFICITY IS EVERYTHING: it provides the road map to successful resolution of the case, it provides the primary mechanism for holding the participants accountable, and it defines "reasonable efforts."

✓ Stipulations: Do not approve the case plan based solely on the stipulation of the parties. Review the plan to ensure that it is complete and specific.

✓ ISSUE WARNINGS
  • Warn the parents and the agency that failure to comply with the plan is grounds for contempt and of the potential penalties for such contempt, should it occur.
  • Warn the parents that failure to comply with the plan could result in the filing of a petition to terminate parental rights.
  • Warn IDHW that failure to comply with the plan could result in a finding that the agency failed to make reasonable efforts to reunify the family or to finalize a permanent placement for the child.

✓ Determine whether further efforts are needed to join essential parties.

✓ Determine whether further efforts are needed to ascertain whether the child is an Indian child and/or whether further efforts are needed to give notice as required by the Indian Child Welfare Act (25 USC §§1901, *et seq*). If notice has been given and the tribe does not appear, ensure that there is an affidavit of service in the file and make appropriate findings in the decree.

✓ Determine whether further efforts are needed to identify, locate, and serve missing parent(s), including putative fathers. (Idaho Code § 16-1611(3) requires notice to each parent). If notice has been given and a parent did not appear, ensure that this is documented in the file and make appropriate findings in the decree. Order paternity testing where appropriate to establish parentage.

✓ Enters orders as needed to ensure the progress of the case and to prepare for the next hearing.

✓ Schedule the review hearing. Order the parents, the assigned caseworker, and the GAL to attend. Require IDHW to file a written progress report prior to the review hearing. The court may also require the GAL to file a written progress report.

✓ Enter transport orders to the review hearing for parents or children in state or local custody.

✓ Consult the Educational Needs Benchcard to evaluate the child's or youth's educational progress.